

ORIGINAL

DOCKET FILE COPY ORIGINAL
RECEIVED

Before the
Federal Communications Commission
Washington, D.C. 20554

APR 12 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Federal-State Joint Board on
Universal Service

)
)
)
)

CC Docket No. 96-45

COMMENTS OF BELL ATLANTIC

**The Bell Atlantic Telephone
Companies**

Edward D. Young, III
Michael E. Glover
Of Counsel

Lawrence W. Katz

1320 North Court House Road
Eighth Floor
Arlington, Virginia 22201
(703) 974-4862

April 12, 1996

No. of Copies rec'd
List ABCDE

0411

TABLE OF CONTENTS

	PAGE
I. Introduction and Summary	1
II. Universal Service Issues Transcend This Proceeding.....	4
III. Universal Service Support Should Be Narrowly-Targeted and State-Administered	5
A. The Commission Should Limit the Size of the Fund to the Level Truly Needed to Promote Universal Service	6
B. Administering the Fund	10
C. Interstate SLC and CCL Charges Are Cost Recovery Mechanisms	10
D. More NTS Costs Should Be Recovered on a Non-Traffic Sensitive Basis	11
E. Universal Service Payments Should Be Based On Presubscribed Lines	14
F. Existing Low-Income Mechanisms Should Be Supplemented With Toll Restriction	14
IV. Education and Health Care Access Are Vital New Initiatives.....	16
V. Conclusion	18
Comments of Bell Atlantic, CC Docket No. 80-286 (filed Oct. 10, 1995)	Attachment 1
Comments of Bell Atlantic, CC Docket No. 95-115 (filed Sept. 27, 1995)	Attachment 2
Reply Comments of Bell Atlantic, CC Docket No. 95-115 (filed Nov. 11, 1995).....	Attachment 3

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	

To: The Joint Board

COMMENTS OF BELL ATLANTIC¹

I. Introduction and Summary

The universal service subsidy proposals in this proceeding, coupled with other initiatives mandated by the Telecommunications Act of 1996 ("1996 Act"),² hold the promise of helping to ensure that high-quality telecommunications services are available to all. The policies adopted here are just part of the broader universal service picture; a picture that will be also be affected by the decisions reached in upcoming proceedings, including the Commission's forthcoming investigation of access charge reform and its other proceedings implementing Section 251 of the 1996 Act. Collectively, the Commission's decisions in these various investigations can serve to preserve universal service throughout the United States.

¹ The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; and Bell Atlantic-West Virginia, Inc.

² Pub. L. No. 104-104, 110 Stat. 56 (Feb. 8, 1996).

Of the initiatives in this proceeding, those aimed at providing state-of-the-art telecommunications services to schools, libraries, and rural health care facilities are important new universal service initiatives. Bringing the Information Age to classrooms and libraries will pay long-term dividends in improving the quality of education of students and of the community as a whole.

As an initial matter, existing universal mechanisms should be revised to help eliminate the disincentives created by the current system for local exchange carriers to increase efficiency and productivity. One way to accomplish this goal is by tying eligibility for federal subsidies to the cost of providing local services within a state as a whole, rather than to the loop costs of individual local exchange carriers ("LECs"). The average cost of all "core" local services (i.e., those defined as eligible for subsidy) being offered within a state would be compared to the national average costs of providing such services.

States, rather than LECs, whose average "core" service costs are significantly above the national average would qualify for federal subsidies, to be distributed by the states along with intrastate universal service subsidies, in a manner that state regulators find best preserves universal service within their jurisdiction. In this way, inefficient carriers in otherwise low-cost states will not be rewarded for their excess costs. In any event, however, the total interstate fund should be capped at the present level or possibly indexed appropriately to prevent unreasonable growth. The fund is currently capped until July 1, 1996, and that cap should be extended indefinitely.

The initial set of "core" services upon which the costs are based should consist of single-party voice-grade telephone service, with access to emergency, operator, and

interexchange services and with a "white pages" directory listing. Additional "core" services should be provided on a subsidized basis as needed by schools and libraries to give them access to the National Information Infrastructure.

The federal universal service fund should be financed in the same manner as it has been for the past eight years, with payments into the fund based on presubscribed interexchange lines. With large local exchange carriers, cable operators, and others entering the interexchange marketplace, and with the fund capped, the burden on existing contributors will decline.

The Commission should permit local exchange carriers to phase in increases in the monthly subscriber line charge cap, for example by permitting annual increases in the cap of up to twenty-five cents. In this way, more of the costs will gradually be borne by the end user, without imposing sharp increases that could impact subscribership. Local exchange carriers should also have the discretion to charge remaining carrier common line ("CCL") charges on a non-usage-sensitive basis.

Unlike interstate CCL charges, Long Term Support is an implicit subsidy, embedded in non-pooling LECs' CCL charges, that should either be eliminated immediately or, if retained temporarily, should be made explicit and directly billed to interexchange carriers, as required by statute. It should then be phased out over a short, fixed period.

Existing low-income programs, such as Lifeline Assistance and Link-up America, should be retained to help low-income subscribers acquire and retain their telephone service. LECs should publicize not just these services but other low-cost network offerings that low-income subscribers might find attractive. To help low-income customers manage their toll

services to avoid large unexpected bills, states should adopt voluntary toll restriction services for LECs within their jurisdiction.

Adoption of these proposals will meet the intent of Congress to ensure universal access to needed telecommunications services.

II. Universal Service Issues Transcend This Proceeding

The universal service issues being considered in this rulemaking, while important, are just a segment of the overall picture that the Commission must address in the context of other proceedings that it will soon initiate. For example, access charges, beyond the CCL charges dealt with here, help to defray the LECs' joint and common costs of providing ubiquitous local telephone service. Even if the incremental costs of providing local telephony are defrayed by subscriber charges, which is often not the case, without sufficient revenue to make up this deficit, plus cover the joint and common costs of operating the network, the LECs will be unable to fulfill their traditional role of providers of last resort.

Accordingly, in its forthcoming proceeding on access reform, as well as in interconnection proceedings initiated pursuant to Section 251 of the Act, the Commission must be aware of the current role of incumbent LECs in providing ubiquitous local telephone service at rates that often are set for public policy reasons at artificially low levels. Local competition, at least for some years, will be concentrated in the lowest-cost, high-density areas, leaving the incumbent LECs as the primary local service providers in other areas, where they incur significantly higher costs to provide local service. Historically, revenues from access charges have made significant contributions to covering the common costs of constructing and operating

the LECs' ubiquitous networks and have allowed them to serve these high-cost areas at artificially low rates. If the LECs are deprived of the revenues needed to finance the overall costs of providing the ubiquitous network -- as a result, for example, of expected proposals by long distance carriers to set access charges at incremental cost -- universal service objectives will be jeopardized.

III. Universal Service Support Should Be Narrowly-Targeted and State-Administered.³

Existing universal service subsidy mechanisms, both state and federal, have been effective in keeping rates at just, reasonable, and affordable levels. Overall subscribership is nearly at an all-time high, and many of those who do not have residential telephone service have chosen not to subscribe for reasons other than the price of local service.⁴ Therefore, there is not a national problem that requires new national programs to remedy.⁵

That is not to suggest that the Commission should here eliminate its various existing subsidy programs. There are areas of unusually high cost in which telephone rates are subsidized to keep them reasonably comparable to those in other areas. There are low-income

³ As the Commission requested, Bell Atlantic is incorporating by reference, and attaching, its 1995 comments in CC Docket No. 80-286. *See Notice of Proposed Rulemaking and Order Establishing Joint Board*, FCC 96-93, ¶ 39 (rel. Mar. 8, 1996) ("Notice").

⁴ *See* Dr. Milton Mueller and Dr. Jorge Reina Schement, *Six Myths of Telephone Penetration: Universal Service from the Bottom Up* ("Mueller and Schement") at 9-11.

⁵ *See* Bell Atlantic's Comments in the Commission's telephone subscribership proceeding, CC Docket No. 95-115 (filed Sept. 27, 1995). Those Comments are appended and incorporated by reference.

consumers who would be off the network without targeted programs such as Lifeline Assistance and Link-up America.⁶

On the other hand, without revision to the current system, existing anomalies, that have no positive impact on universal service, but that produce inefficient and sometimes bizarre results, will continue. For example, there is no justification for sending subsidies to telephone companies to reduce their rates well below their costs to levels that are far under the national average. In addition, today's rules provide little incentive for rate of return regulated LECs to lower their operating costs. Instead, if a LEC's costs exceed 115% of the national average in a study area, regardless of whether this is due to sheer inefficiency or legitimately high-cost characteristics of its service area, that LEC is currently eligible to receive universal service funds.

Bell Atlantic's proposal is designed to retain universal service funding where it is really needed. It provides incentives for efficiency and shifts the administration of the federal fund to those entities best able to ascertain the need within recipient states -- the state public service commissions.

A. The Commission Should Limit the Size of the Fund to the Level Truly Needed to Promote Universal Service.

Defining the "Core" Services

The 1996 Act requires the Commission to base its determination of which services should receive universal service subsidies on four criteria, i.e., whether the services are

⁶ Bell Atlantic proposes below a toll restriction service that will help these people keep their bills down and thereby enable them to retain their telephone service.

(1) essential to education, public health, or public safety; (2) subscribed to voluntarily by a majority of residential customers; (3) deployed in public telecommunications carriers' networks, and (4) consistent with the public interest.⁷ Although a service need not necessarily meet all four tests for inclusion in the list of "core" universal services, the Joint Board and Commission evaluation of all potential "core" services must consider all four. If a service does not meet all the criteria, the evaluation must show why the public's interest in including the service on the list is so overwhelming that not all the criteria need to be met.⁸

Bell Atlantic agrees with the Commission's tentative assessment⁹ that "core" services supported by the universal subsidy funds should consist of single-line dial tone voice-grade service, with access to operator services and to emergency services provided in the community. Bell Atlantic also supports the inclusion of a "white pages" directory listing.¹⁰ The emergency services themselves should not be financed through the universal service funding mechanism, because states and communities have often established separate methods of financing for such services. Although a directory listing should be included, the decision of whether there should be a single white pages directory covering all local carriers or multiple directories in a community served by multiple LECs should be left to the states. Likewise, whether touch-tone service should be defined as a "core" service should be left to the states.

⁷ Section 254(c)(1).

⁸ When re-evaluating the list periodically, as required under Section 254(c)(2), the Joint Board and Commission should evaluate both whether new services should be added to the "core" list and whether any initial "core" services no longer meet the criteria and should be deleted.

⁹ Notice at ¶¶ 15-22.

¹⁰ As far as Bell Atlantic is aware, all LECs afford access to interexchange services as part of the basic dial tone service. Therefore, no additional subsidy should be needed.

LECs not currently subject to equal access obligations should be required to upgrade their equipment to provide for equal access only upon *bona fide* request from a second interexchange carrier ("IXC") to serve the customers in the LEC's service area. The LEC that converts to equal access should recover the costs of such conversion from the IXCs that benefit from equal access, as provided in the Commission's rules.¹¹ This recovery mechanism has successfully financed equal access conversions for all the large LECs and many small ones, and there is no reason to change it for the remaining LECs that have not yet converted to equal access.

Sizing the Fund

A LEC may recover from the existing Universal Service Fund if the costs of providing dial tone service within that LEC's study area¹² exceed 115% of the national average.¹³ This mechanism provides LECs with a disincentive to contain costs, because many of their excess costs will be subsidized by contributing carriers and their customers.¹⁴ The Joint Board and the Commission should modify the existing rules to help eliminate this anomaly. Those rules should limit universal service fund subsidies to those situations in which the average cost of providing the "core" services by **all LECs in a state** exceeds the national average. Such an

¹¹ 47 C.F.R. § 69.107.

¹² A study area is generally all exchanges within a state served by the LEC and its affiliates. *See* Notice at n.94.

¹³ *See* 47 C.F.R. § 36.631.

¹⁴ By the same token, LECs that are rate of return regulated have little incentive to increase productivity.

arrangement will send subsidy funds to those states that experience unusually high costs, not directly to individual LECs.

This proposal will focus support on geographic areas that are more costly to serve, because of such factors as low population density and difficult terrain, instead of on companies that are high-cost, sometimes as a result of inefficiency. In addition, the existing rules have encouraged the sale of high-cost exchanges by large LECs whose overall study area is sufficiently low-cost that they do not qualify for universal service funds. The smaller LECs that acquire these exchanges have higher average operating per-loop costs within their study area. As a result, these exchanges have become eligible for universal service subsidies, even though their operating costs have not changed.

Determining universal service eligibility on a state, rather than a company, basis is also more consistent with the 1996 Act. This is because the new statute requires the Joint Board and the Commission to provide universal service funding to "consumers...in rural, insular, and high cost *areas*,"¹⁵ not to companies.

In addition, the fund should continue to be capped at current levels. The current indexed cap, currently due to expire on July 1, 1996, should be retained permanently.¹⁶ Although Bell Atlantic's proposal to calculate subsidy payments on a state, rather than study area basis, will avoid some of the existing incentives to increase per-line costs, a cap to the fund will also help reduce incentives to over-invest, because the overall subsidy levels will not increase.

¹⁵ Section 254(b)(3) (emphasis added).

¹⁶ See Notice at ¶ 40.

This proposal will give federal funds to the states to be combined with state-generated subsidies to ensure that subscribers in truly high-cost areas receive service at reasonable rates.

B. Administering the Fund

State commissions, not the FCC, are in the best position to determine which areas within their jurisdiction have the most need for subsidies in order to provide affordable local service. Many states already have procedures in place to implement intrastate universal service subsidy programs. It would be unnecessarily duplicative and costly for the Commission to create a separate distribution mechanism when states already have such a process in place. Therefore, the interstate universal service funds earmarked for those states whose “core” service costs significantly exceed of the national average¹⁷ should flow to those states. The funds should then be distributed to eligible LECs that provide local service using their own loop facilities within those states in the manner that the local commission believes is needed to promote universal provision of the “core” services.

C. Interstate SLC and CCL Charges Are Cost Recovery Mechanisms.

The Commission asks whether changes should be made in the current subscriber line charge (“SLC”)¹⁸ and carrier common line (“CCL”) charge mechanisms.¹⁹

¹⁷ This threshold should be no greater than 115% of the national average.

¹⁸ Also referred to as the End User Common Line charge.

¹⁹ Notice at ¶ 113.

Contrary to the Commission's assumption,²⁰ interstate CCL charges are *not* implicit subsidies, and, therefore, need not be made explicit under the 1996 Act. Instead, federal CCL charges recover the portion of interstate non-traffic sensitive ("NTS") loop costs that are not recovered through SLC charges.²¹ The interstate NTS cost are real, defined costs based upon the Commission's determination that a certain portion of the total NTS costs should be borne by the interstate jurisdiction. Although the interstate costs allocated to a particular common line may not always exactly match the relative interstate/intrastate use of that facility, that fact does not make the interstate CCL charge a subsidy. The rate paid by a subscriber to any generally-tariffed service does not cover the exact cost of the particular facility serving that customer. Rates for many services, including CCL, are of necessity based upon averages, but that fact does not mean that the rates for all services contain implicit subsidies. Therefore, with the exception of Long Term Support payments, addressed below, retaining the interstate CCL charge does not violate the statutory ban on implicit subsidies.²²

D. More NTS Costs Should Be Recovered on a Non-Traffic Sensitive Basis.

Whether the Commission addresses the NTS cost recovery issue here or in the forthcoming access restructure proceeding, it should afford LECs the right to increase the SLC

²⁰ *Id.*

²¹ 47 C.F.R. § 69.105(b).

²² *See* 47 U.S.C. § 254(e).

cap by a modest amount each year, while reducing the interstate CCL accordingly.²³ For example, the Commission could allow LECs to increase the monthly SLC cap on a phased basis by up to twenty-five cents each year. It should also allow the SLC cap to be automatically indexed for inflation. At the same time, the Commission should afford LECs the flexibility to recover the residual CCL charges in a manner appropriate to their competitive position. For example, the first step would be to deaverage CCL minute of use charges by density zone.²⁴ Another step in this process would be to permit LECs to recover the remaining CCL charges on a flat-rated or per-line basis. In any event, interexchange carriers should be required to flow through any CCL reductions to their MTS customers dollar-for-dollar.

Allowing small annual SLC increases would be a recognition that the bulk of the non-traffic sensitive costs should ultimately be charged on a non-traffic sensitive basis. The proposed gradual increases in the SLC cap will permit the Commission to avoid sharp rate increases as it moves toward non-traffic sensitive recovery. Such a moderate approach also recognizes that interexchange carriers benefit from the use of the common line to originate and terminate their calls by charging them for a portion of the NTS costs.

Based upon the lack of adverse impact on subscribership of the initial imposition of the SLC and of subsequent increases, it is unlikely that a minimal, phased increase in the cap

²³ Affording LECs additional pricing flexibility is consistent with Chairman Hundt's November 2, 1995 speech before the United States Telephone Association. To accomplish this goal, Section 69.104(e) of the Commission's Rules should be amended to give LECs the flexibility to price to the SLC cap.

²⁴ To facilitate administration, the Commission should allow LECs to use the density zones established for expanded interconnection in developing deaveraged CCL rates. *See Expanded Interconnection with Local Telephone Company Facilities, Report and Order and Notice of Proposed Rulemaking*, 7 FCC Rcd 7369, ¶¶ 172-86 (1992).

will affect subscribership.²⁵ For low-income subscribers, Lifeline Assistance is available to defray the higher SLC charges, and other subscribers should be able to absorb the modest SLC increases, especially when the reduced CCL charges are reflected in lower toll rates.

Long Term Support ("LTS") is, however, an implicit subsidy and should be eliminated, as the Commission proposes.²⁶ LTS is a non-cost-based universal service subsidy payment, embedded in the CCL charge, which is collected from LECs that do not participate in the National Exchange Carrier Association, Inc. ("NECA") common line pool and given to those LECs that are still in the pool.²⁷ This mechanism should be eliminated. There is no indication that it is needed to maintain affordable rates by pool companies,²⁸ and LTS is an implicit subsidy that the 1996 Act requires to be removed.²⁹ In any event, the LTS subsidy has outlived its usefulness and should be eliminated from CCL charges immediately, as the Commission proposes. Any explicit LTS subsidies that the Commission retains should be frozen at current levels and phased out over a short, fixed period, such as four years.

²⁵ *See* Notice at ¶ 114.

²⁶ *Id.* at ¶ 115.

²⁷ *See* 47 C.F.R. §§ 69.603(e), 69.612.

²⁸ As is the case with the universal service fund, the availability of LTS has encouraged some non-pool companies to sell existing exchanges to pool companies. Some of these exchanges have then become eligible for LTS subsidy, even though the costs of providing service have not changed. For example, NECA recently proposed, then had to withdraw, an LTS increase of nearly \$10 million for this very reason. NECA Transmittal No. 697 (filed Jan. 19, 1996).

²⁹ 47 U.S.C. § 254 (e).

E. Universal Service Payments Should Be Based On Presubscribed Lines.

There is no reason to change the existing mechanism for financing interstate universal service. Currently, interexchange carriers with at least .05% of total presubscribed lines contribute to the fund.³⁰ With the changes adopted in the 1996 Act, the Bell operating companies ("BOCs"), GTE, cable companies, electric utilities, and many other entities are likely to enter the long distance marketplace very soon. By the time final rules are adopted in this proceeding, it is likely that some, if not all, BOCs will have in-region relief. As a result, many companies in addition to the incumbent interexchange carriers are likely soon to have large numbers of presubscribed lines and will each contribute significant amounts into the universal service fund. The burden of funding universal service will be spread over a larger number of contributors, and the incumbent IXCs' share of the total fund payment will decline.

F. Existing Low-Income Mechanisms Should Be Supplemented With Toll Restriction.

As Bell Atlantic demonstrated in its comments in the Commission's Subscribership proceeding, CC Docket No. 95-115, existing low-income assistance programs, both federal and state, have proved effective in keeping subscribership levels high. Some proposals in that proceeding, such as prohibiting denial of local service for non-payment of toll bills, when implemented at the state level, have not had an appreciable impact on subscribership.³¹ Recent subscribership figures released by the Commission confirm this.

³⁰ 47 C.F.R. §§ 69.5(d), 69.116.

³¹ Bell Atlantic Comments in CC Docket No. 95-115 at 8-11.

Subscribership penetration in Pennsylvania and Delaware, the two Bell Atlantic jurisdictions which prohibit denial of local service for nonpayment of other charges, showed little change in subscribership between 1994 and 1995. By contrast, subscribership levels in Maryland, Virginia and West Virginia, which allow such denial, are at all-time highs and have shown recent increases.³²

The Commission has suggested that the bulk of customers' bill payment difficulties may arise because of an inability to regulate the amount of toll calls they place.³³ In order to provide customers with the ability to restrict long distance calling, each state should adopt a mechanism to restrict toll calling, based upon the state commission's determination of the best plan to meet its constituents' particular needs. Such plans should be available to all customers, but rates for customers that do not meet low-income guidelines should not be subsidized.

Such plans should be voluntary but should allow currently-disconnected customers to reconnect if they retain the toll restriction service and maintain a mutually-agreed-to payment plan for past-due bills. The plans should permit customers to prevent toll and pay-per-call calls to be placed from their telephones. They should also provide for waiver of non-recurring charges for low-income customers to ensure that they have easy access to the service.

³² Industry Analysis Division, Common Carrier Bureau, Telephone Subscribership in the United States at Table 3 (Feb. 1996).

³³ *Amendment of the Commission's Rules and Policies to Increase Subscribership and Usage of the Public Switched Network, Notice of Proposed Rulemaking*, 10 FCC Rcd 13003, ¶ 10 (1995). *See, also* Mueller and Schement at 9.

This model toll restriction program will give customers control over their service and afford them the tools to avoid incurring excessive long distance charges, while retaining sufficient leverage to give telephone companies some chance of collecting overdue bills. The Commission should encourage states to adopt programs that include these features, but it should permit state regulators to determine the actual rates, terms, and conditions that are needed within their jurisdiction. The continuing Joint Board universal service oversight process can be used to determine if additional toll restriction features are needed and to make the appropriate recommendations to the states.

In addition to assistance in preventing excessive toll bills, low-income consumers may not always be aware of lower-priced local service offerings that are available to them. In addition to subsidized programs aimed at low-income subscribers, such as Link-up and Lifeline, many LECs also offer generally-available local services that include only a small number of (or no) local calls at reduced monthly charges. Bell Atlantic is committed to publicizing the availability of such lower-priced services to low-income and other consumers.³⁴

IV. Education and Health Care Access Are Vital New Initiatives.

The proposals in this proceeding³⁵ dealing with rural, insular, and high-cost areas, and with low-income subscribers, are designed to refine on-going, viable Commission and state

³⁴ One way of publicizing these programs could be through the Internet. As a result of providing community Internet access in schools and libraries, the public will be afforded easy access to this information.

³⁵ Notice at ¶ 14.

universal service programs. The legislation has, however, also required the Commission to initiate new, vitally-important programs to provide state-of-the-art telecommunications services to the educational and rural health-care community. Bringing the Information Superhighway to educational institutions -- schools and libraries -- will inject new vigor into an educational system that has come under recent fire. As the President's NII Advisory Council has recently found, "[i]n some ways, schools are the most important component of the Information Superhighway. Their success in implementing and instructing students on the use of the Information Age technologies may determine how well children assimilate into the working world."³⁶

Bell Atlantic participated in the development of the *KickStart Initiative* and fully supports its proposals. The study provides a set of useful models that can help shape a successful universal service policy to connect all schools to the NII. Using the *KickStart Initiative* as a guide, Bell Atlantic is developing a cooperative federal-state-local proposal that will help ensure that each school in the United States has the tools needed to enhance the learning experiences of students through access to Information Age services. This proposal is being designed to provide schools with the telecommunications services they need to incorporate a solid Information Age infrastructure into their curriculum over the next few years.

³⁶ United States Advisory Council on the National Information Infrastructure, *KickStart Initiative* (1996) at 33.

V. Conclusion

Bell Atlantic urges the Commission to adopt the proposals outlined above.

Respectfully Submitted,

**The Bell Atlantic Telephone
Companies**

By their Attorney

Edward D. Young, III
Michael E. Glover
Of Counsel


Lawrence W. Katz

1320 North Court House Road
Eighth Floor
Arlington, Virginia 22201
(703) 974-4862

April 12, 1996

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Part 36 of The)	CC Docket No. 80-286
Commission's Rules and)	
Establishment of a Joint Board)	

COMMENTS OF BELL ATLANTIC

**The Bell Atlantic Telephone
Companies**

By their Attorney

**Edward D. Young, III
Michael E. Glover
Of Counsel**

**Lawrence W. Katz
1320 North Court House Road
Eighth Floor
Arlington, Virginia 22201
(703) 974-4862**

October 10, 1995

TABLE OF CONTENTS

I.	<u>Introduction and Summary</u>	1
II.	<u>Dial Equipment Minutes Weighting Rules</u>	4
III.A	<u>Use of High-Cost Credits</u>	5
III.B	<u>Administrative Options</u>	10
IV.A	<u>Least-Cost Bidding</u>	12
IV.B	<u>Other Long-Term Issues</u>	12
V.	<u>Conclusion</u>	13

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Part 36 of The)	CC Docket No. 80-286
Commission's Rules and)	
Establishment of a Joint Board)	

COMMENTS OF BELL ATLANTIC¹

I. **Introduction and Summary.**

Before addressing revisions to the mechanism of providing subsidies to high-cost areas, it is incumbent on the Commission to develop a record and make findings on how best to ensure that affordable telephone service is available to the general public in high-cost areas in a changing telecommunications environment. The present record, which is devoid of information on the effect of local competition and data concerning affordability of telephone service, is insufficient for that purpose.

In fact, the initial inquiry² and the present rulemaking and second inquiry³ are based on an unsubstantiated assumption that continued national high-cost support at

¹ The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; and Bell Atlantic-West Virginia, Inc.

² *Notice of Inquiry*, 9 FCC Rcd 7404 (1994).

³ *Notice of Proposed Rulemaking and Notice of Inquiry*, FCC 95-282 (rel. July 13, 1995) ("Notice").

approximately the current level is needed to preserve universal service. Although there is little dispute that service costs vary among states and among areas within states, there is no evidence as to what level of national support is required in high-cost areas to prevent rate increases that will undermine universal service. Likewise, there is no record concerning the potential effect of growing local competition on universal service. In Bell Atlantic, most of the subsidies from low-cost to high-cost areas derive from intrastate rate averaging and from the explicit loading of contribution on business services. The pressures of local competition bring into serious question the continued viability of these socially-conceived rate designs. The rapid expansion of local competition could exacerbate the rate disparities between low- and high-cost areas and could have a significant impact on subscribership in high-cost areas.

Accordingly, before attempting to revise its Universal Service Fund rules, the Commission should assess the effect of existing rate levels on universal service and the potential increase in those rates caused by the rapid expansion of local competition. These issues can best be addressed in a broader investigation aimed at access reform and universal service, rather than in the instant narrow proceeding.

Assuming that the Commission still chooses to move forward at this time, however, it should adopt the mechanisms to fulfill not only the four principles stated in the Notice,⁴ but it should add a fifth basic principle, which is a corollary of the fourth: any assistance program should be competitively-neutral, so that incumbent local exchange carriers ("LECs"),

⁴ Those principles are (1) proper targeting of assistance, (2) promotion of efficient investment and operation, (3) assistance should be technologically neutral, and (4) mechanisms should not impose

whatever their size, are not disadvantaged vis-à-vis new entrants. Applying these principles to the issues in this proceeding, if a high-cost credit program is instituted, such a program should be administered in a nondiscriminatory manner, so that, if one LEC serving an area is ineligible to receive credits, competing providers will likewise be ineligible, to avoid skewing the competitive marketplace.

Subsidies should not be available to construct and operate redundant networks in high-cost areas. If a new entrant cannot serve a community on an unsubsidized basis, there is no justification for ratepayers' funds being used to finance contrived competitive entry that would be uneconomic but for the subsidy. If, however, the Commission were to permit the use of universal service funds to finance competitive expansion in high-cost areas, it should ensure that any recipient of these funds undertakes the full panoply of service obligations by constructing a ubiquitous system capable of providing telephone service to all residential and single-line business customers in the high-cost area. This requirement will help to prevent a new entrant from "cream-skimming" a high-cost area by serving only lower-cost individual subscribers (e.g., serving the bank and grocery store on Main Street while ignoring the true high cost subscribers). In addition, in order to ensure that subsidies are properly applied to local rates and to allow the Commission and state commissions to track the costs of all competing providers, new entrants should be required to account for and allocate costs on a basis equivalent to the Commission's Part 32 accounting requirements and Part 36 Separations Rules that are applicable to the incumbents.

Applying the underlying policies to the items addressed in the Notice, the Commission should allow "weighting" of dial equipment minutes ("DEM weighting") only insofar